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Attorneys for Defendant
COSTELLO'S TAVERN

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS - EASTERN DISTRICT

CHAPPELL & CO, Inc., IRA GERSHWIN MUSIC, GEORGE GERSHWIN MUSIC and WARNER BROS., INC.	}	Case No. ED CV 05-10143 (NG)
Plaintiffs,		DEFENDANT'S INITIAL DISCLOSURES PURSUANT TO FED. R.CIV.P. 26(a)(1) AND LOCAL RULE 26.2(A)
v.		
COSTELLO'S TAVERN, INC.,		
Defendant.		

The defendant hereby provides the following disclosures pursuant to
Fed.R.Civ.P.26(a)(1) and LR 26.2(A) as follows:

1. Individuals Likely To Have Discoverable Information:

- a. James Merenda, Professor of Music, Northeastern University and New England Conservatory of Music, Boston, Massachusetts. Prof. Merenda is also a professional musician and instructor. He is a graduate of New England Conservatory of Music. (The "Jazz-Jam" of August 15, 2004 which forms the

1 basis of plaintiffs' complaint was conducted under the auspices of Prof.
2 Merenda. Prof. Merenda has direct knowledge of the compositions performed
3 at defendant's establishment on the night in question. He will refute each and
4 every allegation of plaintiff's complaint.)

- 5 b. Maurice Rucker, Jamaica Plain, Massachusetts. Mr. Rucker is a professional
6 musician, recording artist, songwriter and publisher. He is a member of
7 ASCAP. (Mr. Rucker plays an integral role in the entertainment and Jazz-Jam
8 presented at defendant's establishment. He will refute plaintiffs' allegations of
9 copyright infringement. He will also offer expert and percipient testimony as
10 to the origins of jazz music and how it was performed at defendant's
11 establishment on the night in question.)
- 12 c. Larry Watson, New York, New York. Mr. Watson is an international
13 recording artist and past professor of music at Berklee College of Music. He is
14 also a songwriter and publisher as well as a member of ASCAP. (Mr. Watson
15 will offer expert testimony as to the origins of jazz music and how it was
16 performed at defendant's establishment on the night in question).
- 17 d. Richard Wiley, Jamaica Plain, Massachusetts. Mr. Wiley is a retired
18 professional musician. (He will be offering expert and percipient testimony as
19 to the origins of jazz music and how it was presented at defendant's
20 establishment on the night in question).
- 21 e. Mark Francis of Allied Amusement, Boston, Massachusetts. (Mr. Francis will
22 offer testimony as to the licensing procedures and compliance therewith for the
23 "Juke Box" located in defendant's establishment presently and on the night in
24 question.)

25 **2. Description of Documents Which Support Claims:**

- 26 a. Copies of all applicable entertainment licenses associated with the "Juke Box"
27 in Costello's Tavern.
28

b. Discovery and investigation continue as to any documentation which supports defendant's claim and/or defenses.

3. Damages:

Defendant seeks attorneys fees and costs as a result of defending the specious allegations described in plaintiffs' complaint at the rate of \$400.00 per hour.

Dated: May 17, 2005

NELSON ◇ GRIFFIN

By: /s/ THOMAS J. GRIFFIN
THOMAS J. GRIFFIN
Attorneys for Defendant
COSTELLO'S TAVERN, INC.

Dated: May 17, 2005

CERTIFICATE OF SERVICE

I, Joji Sarthou, hereby certify that on this 29th day of April, 2005, I served Defendant's Initial Disclosures Pursuant to Fed.R.Civ.P. 26(a)(1) and Local Rule 26.2(A) on the plaintiffs' counsel by mailing a copy thereof addressed to: Stephen S. Young, Esq., Holland & Knight, LLP, 10 St. James Avenue, Boston, MA 02116.

/s/ JOJI SARTHOU
JOJI SARTHOU